

## **BARNSELY METROPOLITAN BOROUGH COUNCIL**

**This matter is a Key Decision within the Council's definition and has been included in the relevant Forward Plan**

**Report of the Executive  
Director, Place.**

### **LICENSING ACT 2003 – STATEMENT OF LICENSING POLICY**

#### **1. Purpose of report**

1.1 To remind Members of the review of the existing Licensing Policy governing the licensing of the retail sale of alcohol, the provision of regulated entertainment and the provision of late night refreshment; and following the recent public consultation exercise, to seek approval for the Policy to go to full Council.

#### **2. Recommendations**

**2.1 That the Licensing Act Statement of Licensing Policy 2017 be approved.**

#### **3. Introduction**

3.1 The Statement of Licensing Policy ("the Policy") is a legal requirement under the Licensing Act 2003. The purpose of the policy is to guide the Licensing Committee when considering applications for the sale of alcohol, regulated entertainment, late night refreshment, cinema and theatrical performances, as well as assisting applicants in presenting their application. The contents of the Policy are specified in Government Guidance.

3.2 The aim of the Policy is to promote the four licensing objectives, which are;

- a) The prevention of crime and disorder
- b) Public safety
- c) The prevention of public nuisance and
- d) The protection of children from harm.

3.3 The Council wishes to promote the above whilst still encouraging a sustainable entertainment and leisure industry. The Council recognises that local residents need a safe and healthy environment in which to work and live, and that safe and well run entertainment and leisure facilities are important to the local economy and cultural health of the Borough.

#### **4. Consideration of alternative approaches**

4.1 Barnsley Metropolitan Borough Council is the Licensing Authority for the purposes of the Licensing Act 2003 and has a statutory duty to publish a statement of Licensing Policy under the Act. We are also legally required to review and update it on a regular basis and following any changes in the relevant legislation or guidance.

4.2 The existing policy does not include reference to new policies, guidance or legislative changes, and is therefore outdated. It is also not aligned to Future Council objectives. The new policy covers these issues.

4.3 Failing to approve the policy would result in the Council being unable to meet its statutory functions in that applications for licences together with reviews of licences have to be dealt with in line with the adopted policy.

## **5. Proposal and justification**

5.1 The statement of Licensing Policy has certain key objectives;

- Provides applicants with a clear, consistent basis for submitting applications and notices in the Borough
- Provides a clear, consistent basis for determining licensing applications in Barnsley
- Ensures the relevant views of those affected by licensed premises are taken into consideration
- Ensures that local area issues are taken into account by licensed premises and
- Supports the wider strategies of the Council and the approach to licensed activities and premises across the Borough.

5.2 The adoption of the Policy is a legal requirement. The overarching ethos of the policy is to ensure that the licensing objectives are met throughout the Authority and that communities are not undermined by crime and disorder as result of licensed activities or premises.

5.3 The licensed entertainment and hospitality industry is a major provider of full time, part time and casual employment and it makes a significant contribution to the local economy. It fulfils an important social and community role, providing facilities for both residents and businesses and provides vital support for related sectors such as retail and tourism.

5.4 The Licensing Statement of Policy forms an essential part of the Council's integrated approach to alcohol related issues and the provision of regulated entertainment. It seeks to strike a balance between the need to encourage a vibrant and dynamic entertainment industry as part of the regeneration of the Borough, and the need to ensure that concerns relating to public disorder are effectively

addressed. The policies in this Statement aim to contribute to making the Borough as a whole, and its town centre in particular, pleasant, safe and prosperous places in which to live, work, learn and relax. We want to work with partners and the licensing trade to provide a safe, diverse and family orientated night time economy for all to enjoy. For example, the Licensing Service is working with internal and external partners to contribute to the achievement of Purple flag status for the town centre.

5.5 Licensing is also working with Public Health and the Police to proactively address the issue of problem drinkers in the town centre, looking at working with retail premises to stop the sale of high strength, low cost alcohol and the sale of single cans. The Service will also, in conjunction with Public Health, consider the available evidence and the feasibility of some of the potential licensing controls available, where they are considered necessary, in particular to support the town centre night time economy. Initial views on these measures have been collected at consultation and they may be the subject of further Cabinet reports.

## **6. Implications for local people / service users**

6.1 The aim of the new policy is to support business and regeneration across the Borough and town centre in particular, whilst protecting the public and ensuring that the four licensing objectives are met. This will result in a safe and varied night time economy.

6.2 A new reference is included in the policy to Child Sexual Exploitation, and applicants are required to have regards to any relevant measures for the protection of children from harm, both physical and psychological.

## **7. Financial implications**

7.1 Consultations on the financial implications have taken place with representatives of the Director of Finance, Assets & IT.

7.2 There are no financial implications arising from the approval of the Policy.

## **8. Employee implications**

8.1 There are no specific employee implications in reviewing and updating this policy.

## **9. Communications implications**

9.1 The Policy has been subject to a 6 week public consultation period, when it appeared on the Council's consultation website. All stakeholders were be contacted by letter to inform them of the consultation. This included all premises licensed under this legislation in the borough, as well as statutory consultees such as South Yorkshire Police.

9.2 Once adopted, the policy will be published on the Licensing web site. The Policy will therefore be available to all interested parties.

## **10. Consultations**

10.1 In accordance with legislation, consultation on the proposed new policy was carried out with the prescribed statutory consultees, responsible authorities, Members, parish councils and all premises, individuals and groups who hold a licence in the Borough. Consultation lasted for a period of 6 weeks, from 7<sup>th</sup> November to the 16<sup>th</sup> December 2016.

10.2 The views of all consultees were duly considered and given proper weight when reviewing this policy.

10.3 Very few responses received were regarding the policy, only 4 in total. Two responses were received from licensees, one regarding a reduced notice period (these are statutory and cannot be altered) and the other with specific comments regarding the sale of Lottery products within licensed premises (clarification issue).

10.4 South Yorkshire Police were also consulted. They had no comments on the policy other than a specific comment on the requirement for a record of staff training, refusals and incidents. This sentence has been added to the policy. At this point South Yorkshire Police are not asking us to consider any of the potential licensing controls available such as a Levy, Early Morning Restriction area or Cumulative Impact Policy.

10.5 Public Health responded to the consultation to say that “the health implications of harmful drinking at a population level are more serious than ever before and implementing evidence based licensing policies will make a major contribution. Research indicates that the more intensely alcohol licensing policies are implemented in a local area, the stronger their effect on reduction in alcohol related hospital admissions, with an additional annual average reduction of 2% in alcohol-related hospital admissions rates, had those licensing policies not been in place.” Public Health are therefore supportive of licensing restrictions as they believe that restrictions “will provide additional collective powers to address recurring problems such as high levels of alcohol related crime and disorder in specific areas at specific times; serious public nuisance, instances of alcohol related anti-social behaviour and harmful drinking across the population.”

(Reference: PHE report December 2016 The Public Health Burden of Alcohol and the Effectiveness and Cost Effectiveness of Alcohol Control Policies – An Evidence Review).

10.6 Before any restriction is considered, substantial evidence must be collated and analysed to indicate the extent of any problem. Any restriction imposed would be likely to be legally challenged and therefore must have a sound evidential background. The grounds for any such restriction must be based on one of the existing licensing objectives such as the prevention of crime and disorder. Currently, this evidence does not exist, but information is currently being collated as part of ongoing measures to tackle street drinking via the DIALOG group which has members from Licensing, Public Health and the Police working together to tackle alcohol related issues in the town centre. It is good practice to use other existing

powers to tackle anti-social behaviour issues related to drinking before licensing restrictions are considered. These are detailed in the policy.

10.7 Currently public health is not one of the Licensing objectives, so cannot form the sole basis for the introduction of licensing restrictions. Any evidence must relate to one of the existing licensing objectives such as the prevention of crime and disorder. As such, the evidence for any licensing restriction would be mainly police based, and the Police do not consider there to be a need for restrictions at this time. However, there are proposals to amend the legislation to make public health a licensing objective (proposed for some time this year) so when that happens the situation could be reviewed. A balance needs to be achieved where the harmful effects of alcohol are addressed, without curtailing economic regeneration, especially of the town centre.

10.8 In the meantime, Licensing will continue to work closely with Public Health and other partners in a proactive approach to reduce alcohol related harm. This includes the work of the DIALOG group, the review of the Alcohol strategy, the proposals for Night Marshalls and the work being done by Public Health on a regional level to address minimum unit pricing of alcohol.

## **11. The Corporate Plan and the Council's Performance Management Framework**

11.1 The publication of the policy supports the Council priority of "People achieving their potential" by ensuring children and adults are protected from harm. It also supports the "Thriving and Vibrant Economy" priority by supporting new business in the licensed trade.

## **12. Tackling health inequalities**

12.1 The Policy recognises the impact that excessive or binge drinking can have on public health and that positive action in promoting the licensing objectives is equally likely to have an indirect impact on public health.

## **13. Risk management issues**

13.1 Failure to have an up to date Statement of Licensing Policy could result in successful legal challenges to the Council's decisions.

## **14. Compatibility with the European Convention on Human Rights**

14.1 The implementation of the Statement of Licensing Policy will not interfere with the Convention on Human Rights. However, decisions made by the Licensing Board in relation to applications for Licences and reviews of licences will be affected by Human Rights Legislation, in particular Article 6 (the right to a fair trial).

## **15. Promoting equality, diversity, and social inclusion**

15.1 The Licensing Act 2003 contains four licensing objectives, including public safety and the protection of children from harm. It is recognised that subjecting

vulnerable adults or children to some forms of licensed entertainment or premises could lead to them being harmed or exploited and care must be taken to ensure that all applications provide mitigation measures suitable to the level of risk.

15.2 In order to promote inclusion and to prevent exclusion, the Policy reminds applicants of their responsibilities under the Equality Act 2010. In seeking to support a community in which diversity is encouraged, the Council will expect all applicants to take steps to ensure that no person is treated differently on the grounds of race, colour, religion, ethnic or national origins, age, sex, sexual orientation or disability.

15.3 On consultation, it was decided that a full Equality Impact Assessment was not required for the Policy. However, several issues were highlighted as requiring further action moving forward, though not directly related to the Policy itself (see Appendix 2). These issues and others were discussed with the Town Centre Equality and Diversity working group. They will be taken up as part of the remit of the working group and Town Centre regeneration plans and the work towards Purple Flag, which Licensing are involved with.

## **16. Reduction of crime and disorder**

16.1 One of the four licensing objectives relate directly to the prevention of crime and disorder. The Council will have regard to the likely impact of licensing and related crime and disorder when considering the location, operation and management of all proposed licence applications, reviews and variations.

## **17. Conclusion**

17.1 It is proposed that the draft updated Licensing Policy be approved as it stands, without further changes following consultation. However, Licensing will continue to work closely with the Police, Public Health and regeneration partners to identify whether any formal licensing restrictions are required in the future.

17.2 Should any evidence point to the need for such licensing restrictions to be considered, then a further report will be brought to Cabinet. Should restrictions be introduced, the Policy can be amended at any time.

## **18. List of appendices**

Appendix 1 Statement of Licensing Policy.

Appendix 2 Equality Impact Assessment – Licensing Policy.

## **19. Background papers**

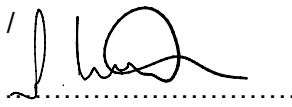
**Licensing Act 2003**

**PHE report December 2016: The Public Health Burden of Alcohol and the Effectiveness and Cost Effectiveness of Alcohol Control Policies – An Evidence Review.**

Officer Contact: Caroline Petty. Telephone No: 01226 772482. Date: 21.07.16

Financial Implications /

Consultation

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*(To be signed by senior Financial Services officer  
where no financial implications)*